

No. 9(1/82-6Lab/5888.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workman and the management of M/s Cast Master Proprietor, Ruchika Engineering Private Limited, No. 46, Industrial Estate Sector 6, Faridabad :—

BEFORE SHRI M.C. BHARDWAJ, PRESIDING OFFICER INDUSTRIAL TRIBUNAL, HARYANA,
FARIDABAD

Reference No 132/1981

between

SHRI ASHOK KUMAR OHJA WORKMAN AND MANAGEMENT OF M/S CAST MASTER PROPRIETOR, RUCHIKA ENGINEERING PRIVATE LIMITED, NO. 46, INDUSTRIAL ESTATE, SECTOR-6, FARIDABAD.

Present :—

Shri Ashok Kumar Ohja, workman, himself.

Shri K. P. Agrawal for the management.

AWARD

The State Government of Haryana referred the following dispute between the workman Shri Ashok Kumar Ohja and the management of M/s Cast Master Proprietor, Ruchika Engineering, Private Limited, No. 46, Industrial Estate, Sector-6, Faridabad, by order No ID/FD/15/81/22909, dated 4th May, 1981, to this Tribunal, for adjudication in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 :—

Whether the termination of services of Shri Ashok Kumar Ohja was justified and in order? If not, to what relief is he entitled?

Notices were sent to the parties who appeared and filed their pleadings. The following issues were framed by my order dated 22nd July, 1981:—

- (1) Whether the reference is premature? If so, to what effect?
- (2) Whether the workman abandoned his job of his own? If so, to what effect?
- (3) Whether the termination of services of Shri Ashok Kumar Ohja was justified and in order? If not, to what relief is he entitled?

Management examined Shri M. Sanchety, Chief Accountant as MW-1 and the workman examined himself as WW-1. Arguments were heard.

Issue No. 1.

MW-1 deposed that the workman was appointed,—vide letter Ex.M-1 signed by the Managing Director. The workman was charge-sheeted,—vide charge-sheet Ex. M-2. The enquiry was conducted into charges by Shri Jagbir Singh Badana. Copy of proceeding was Ex. M-3 and report of the enquiry officer was Ex.M-4. The workman was found guilty and was given punishment of seven days suspension. Copy of order was Ex.M-5. The workman received the order. He was to report for duties after suspension period on 19th December, 1980 in the Second Shift. He came to the factory on 19th December, 1980 at 3.45 P. M. The workman had talked with the General Manager in his presence and had demanded full wages for the suspension period. He had stated that unless he was paid full wages, he will not come for duties and he went away. Hereafter, the workman remained continuously absent till 28th February, 1981. The management issued letters Ex.M-7 to M-9 and postal receipts being Ex.M- 0 to M-11, but the workman did not report for duties. He further stated that the workman had sent his demand notice on 20th December, 1980, copy of which was Ex.M-16. Report of Conciliation Officer was Ex.M-17. In cross examination, he replied that he was not present during the conciliation proceeding. The concerned workman deposed that when he reported for duties on 19th December, 1980 he was turned out from the gate of the factory by the manager and was refused to give the duties. He submitted his demand notice. During the conciliation proceeding, the manager refused him to give duties. The manager also took the same stand on 26th February, 1981 before the Dy. Labour Commissioner.

The Learned representative for the management argued that there was no cause for raising the demand of dismissal on 20th December, 1980. The workman was not justified in asking for payment of full wages for seven days suspension period. It was inflicted on him as punishment given in the standing order. The management have refused him to give him duties. He referred to conciliation report Ex.M-17 and pointed out that the management had categorically given in the written reply that the workman was not refused duties. He also pointed out to second para of the demand notice Ex-M-17 and letters issued to the workman Ex.M-14,M-9,M-8,M-7 and M-6.

I have gone through the demand notice. The concerned second para of demand notice which is as under:—

“That after my resumption duty on 19th December, 1980, I requested the management that the management has awarded me punishment for seven days though illegally and I am entitled to full back wages prior to the period and I should be paid accordingly. The management did not relish this request and therefore, pushed me out of the factory gate. The management has wrongly terminated my services with effect from 19th December, 1980 and am entitled to reinstatement with full back wages and continuity of service”.

The conciliation report Ex. M-17 speaks all the two versions, the workman stating the suspension of seven days to be illegal and his demand for full wages was justified, whereas the management gave the version that the workman had refused to work till he was paid full wages for the suspension period. It was also stated by the management that the service of the workman was not terminated and it seems he was not willing to work with the management. The management terms the demand notice was pre-mature. Letter Ex. M-6 is dated 22nd December, 1980 which was sent by the registered A.D. post, postal receipt being Ex. M-10 in which he was asked to join his duties. It was also stated that he left after 5—10 minutes of rejoin his duties on 19th December, 1980. A letter was again sent by registered post on 29th December, 1980 intimating that he was marked absent and report latest by 10 January, 1981. He was again sent letter,—vide Ex. M-8 that he joined duties within 10 days in any case not later than 1st February, 1981. This letter was sent under certificate of posting Ex. M-12. The termination letter was issued on 5th March, 1981, intimating him that due to continuous absent his name was dropped from the muster-roll with effect from 1st January, 1981. This was intimated to him by registered A.D. post. All the above documents lead to an irresistible conclusion that the service of the workman was not terminated on 19th December, 1980. He admits to the demand of full wages for the suspension period from the management. The management issued him call letters for rejoin his duties. The workman never made a complaint to any of the authority that he ever went to join his duties on the call letters but was not so allowed by the management. This tend of the management was also clear from the conciliation report Ex. M-17. I find that the demand notice, dated 20th December, 1980 was pre mature. The present reference was, therefore, fails on this ground. Workman may raise a fresh demand.

Issue No. 2 and 3 :—

As per finding given by me on issue No. 1, these issues need no decision.

While answering the reference, I give my award that the case of Shri Ashok Kumar Ohja fails on issue No. 1 and he is not entitled to any relief in this reference. I order accordingly.

Dated the 29th May, 1982.

M. C. BHARDWAJ,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Endst. No. 570, dated the 7th June, 1982.

Forwarded (four copies) to the Secretary to Government of Haryana, Labour & Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

M. C. BHARDWAJ,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.